

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.

2015 DEC 21 PM 4:25

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SO. DIST. OF GA.

UNITED STATES OF AMERICA)

v.)

Grilly Holloway, Jr.,)

Defendant.)

CASE NO. 4:13-cr-00007-2

O R D E R

Before the Court is Defendant's Motion For Reduction In Sentence Pursuant to 18 U.S.C. § 3582(c)(2). On June 10, 2015, the Court, sua sponte, reduced Defendant's custodial term from 121 months to 108 months, pursuant to 18 U.S.C. § 3582(c)(2) and Amendment 782 to the United States Sentencing Guidelines. In Defendant's instant motion, he acknowledges that sentence reduction but asserts that the Court assigned him the wrong criminal history category when calculating the amended guideline range.

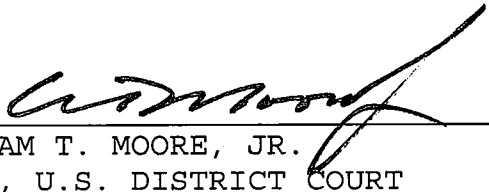
Defendant has previously made this same assertion by means of a Motion to Correct Clerical Error (Doc. 780). That motion was denied by this Court on November 18, 2015 (Doc. 783). In that Order, it was explained that while the Court, at sentencing, had awarded Defendant a downward departure from the applicable guidelines pursuant to USSG § 4A1.3 (overrepresentation of criminal history category), the Court had still adopted criminal history category III as applicable to Defendant, not category II. The Court merely sentenced Defendant as if his criminal history category were category II by downwardly departing from a range of 135 to 168 months (which

corresponds to a total offense level of 31, criminal history category III). As such, Defendant is correctly assigned a criminal history category III.

Since the Court has already reduced Defendant's sentence pursuant to 18 U.S.C. § 3582(c)(2), Defendant's instant motion is construed as a motion for reconsideration of the Court's decision in that regard. In determining the appropriate sentence reduction as to Defendant, the Court properly calculated the amended range as 108 to 135 months, which corresponds to a total offense level of 29, criminal history category III. As noted above, Defendant's sentence was reduced to 108 months. Pursuant to USSG § 1B1.10(b)(2), the Court could not again downwardly depart from the amended guideline range, as such is prohibited.

Defendant's Motion For Reduction In Sentence (construed as a Motion for Reconsideration of the Court's Order reducing sentence), is **DENIED**.

SO ORDERED this 21st day of DECEMBER 2015.



WILLIAM T. MOORE, JR.
JUDGE, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA